

# Supervised Injections Sites: Legal Restrictions and Advocacy Efforts

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## Current status of sites in the U.S.

Supervised injections sites (also known as safe consumptions sites or facilities) are designed for people who acquire illegal drugs elsewhere and inject them under the supervision of trained health care providers. Planning and advocacy for such facilities in the U.S. have accelerated in response to the rising number of opiate-related overdose deaths. As of July 2018, no sanctioned supervised injection site has opened in the U.S. although there are at least 13 such efforts underway.<sup>1</sup> (A clandestine site has been in operation by a community-based agency in an undisclosed location since 2014.)<sup>2,3</sup> Because decisions related to official supervised injection sites in the U.S. remain pending, the issue of legality under federal law has not been tested in the courts. Before a court can weigh in, a site has to open.<sup>4</sup>

## U.S. and Minnesota Law

Supervised injections sites are prohibited by the federal Controlled Substances Act<sup>4</sup> under Section 844 which prohibits illicit drug possession and under Section 856 which prohibits managing or controlling a place for the purpose of unlawfully using a controlled substance;<sup>5</sup> however, federal law does not compel federal enforcement. On December 13, 2017, the United States Attorney's Office, District of Vermont, issued a statement in response to a proposed injection site in Chittenden County.<sup>6</sup> The statement maintained that:

... the proposed [sites] would violate federal criminal laws, including those prohibiting use of narcotics and maintaining a premises for the purposes of narcotic use. It is a crime not only to use illicit substances, but to manage and maintain sites on which such drugs are used and distributed. Thus, exposure to criminal charges would arise for users and [site] workers and overseers. The properties that host [sites] would also be subject to federal forfeiture.<sup>6</sup>

Minnesota Statutes Chapter 152 addresses drugs and controlled substances, drug paraphernalia, and related crimes.<sup>7</sup> Possession of drug paraphernalia is prohibited by M.S. §152.092 Subd. 18, which could be interpreted to apply to workers in supervised injection sites.

## Advocacy efforts

Harm reduction advocates hope that supervised injection sites can follow the path of needle exchange programs which gained broader acceptance over time as a result of their role in containing the spread of HIV and AIDS<sup>1</sup> and point to the success of sites in other countries in terms of reductions in deaths from overdoses and increases in getting people into treatment.<sup>4,5</sup>

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<sup>1</sup> <https://www.npr.org/sections/health-shots/>

<sup>2</sup> Kral AH, Davidson PJ. Addressing the Nation's Opioid Epidemic: Lessons from an Unsanctioned Supervised Injection Site in the U.S. *American Journal of Preventive Medicine*, 2017 (Dec); 53: 919-922. Accessed at: <https://doi.org/10.1016/j.amepre.2017.06.010>

<sup>3</sup> Davidson PJ, Lopez AM, Kral AH. Using drugs in un/safe spaces: Impact of perceived illegality on an underground supervised injecting facility in the United States. *International Journal of Drug Policy*, 2018 (Mar) 53:37-44.  
DOI: [10.1016/j.drugpo.2017.12.005](https://doi.org/10.1016/j.drugpo.2017.12.005)

<sup>4</sup> [https://www.washingtonpost.com/news/powerpost/paloma/the-health-202/2018/04/30/the-health-202-supervised-injection-facilities-are-illegal-in-the-united-states-these-cities-want-to-open-them-anyway/5ae5dbc630fb043711926901/?utm\\_term=.af0fdc951dbf](https://www.washingtonpost.com/news/powerpost/paloma/the-health-202/2018/04/30/the-health-202-supervised-injection-facilities-are-illegal-in-the-united-states-these-cities-want-to-open-them-anyway/5ae5dbc630fb043711926901/?utm_term=.af0fdc951dbf)

<sup>5</sup> Beletsky L, Davis CS, Anderson E, Burris S. The law (and politics) of safe injection facilities in the United States. *American Journal of Public Health*, 2008; 98:231-237. Doi 10.2105/AJPH.2009.103747

<sup>6</sup> <https://www.justice.gov/usao-vt/pr/statement-us-attorney-s-office-concerning-proposed-injection-sites>.

<sup>7</sup> <https://www.revisor.mn.gov/statutes/cite/152>